



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.20529 of 2024

and

W.M.P(MD)Nos.17427 to 17429 of 2024

S.Vincent

... Petitioner

Vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Personal Assistant to District Collector(Development),
Ramanathapuram District,
Ramanathapuram.

3.The Additional Collector(Development),
District Rural Development Agency,
Ramanathapuram.

4.The Assistant Director(Audit),
Ramanathapuram.

5.The Block Development Officer(Village Panchayat),
RS Mangalam,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st Respondent vide his impugned proceedings in Se.Mu.Aa.No. 12130/2024/V3 dated 24.05.2024 and the consequential order



passed by the 1st Respondent vide his proceedings in Se.Mu.Aa.No. 21460/2024/V3 dated 20.06.2024 and quash the same as illegal in so far as it relates to the petitioner's non-inclusion is concerned and consequently direct the Respondents to include the name of the petitioner in the panel for the year 2024-25 and consequently promote the petitioner to the post of Assistant.

For Petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal associates

For Respondent : Mr.S.Shanmugavel
Additional Government Pleader for R1 to R4
Mr.D.Sadiq Raja
Additional Government Pleader for R5

ORDER

The instant writ petition has been filed by a Rural Welfare Officer Grade-II, challenging the panel published on 24.05.2024, which was prepared for promotion to the post of Assistant in the concerned department.

2.As per the Tamil Nadu Ministerial Service Rules, a Junior Assistant, to be promoted as an Assistant has to pass test for Officers of Panchayat Development Department and Panchayat Development Account Test. Apart from that a candidate should have served as Rural Welfare Officer Grade-II and Junior Assistant including Cashier for a period of not less one year each, after



satisfactory completion of training prescribed. Admittedly, the petitioner has cleared all the tests and he has served as Rural Welfare Officer Grade-II. However, the petitioner has not served as Junior Assistant for a period of one year for considering his name for promotion to the post of Assistant.

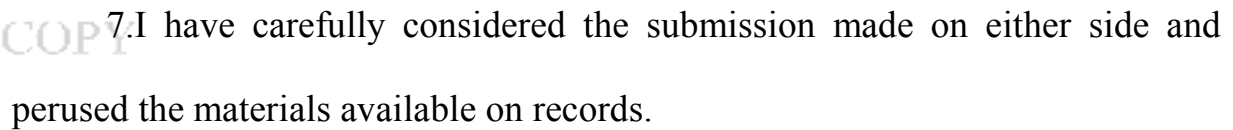
3.While preparing the impugned panel, the petitioner's name was left out solely on the ground that the petitioner has not served as a Junior Assistant for a period of one year for being considered to be promoted to the post of Assistant. Therefore, the said panel is under challenge.

4.According to the learned Counsel appearing for the writ petitioner, though the petitioner has made a request to the department by way of letter dated 08.12.2021, seeking to appoint him as a Junior Assistant, the said request has not been considered. Therefore, there is no fault on the part of the writ petitioner in not functioning as Junior Assistant. Therefore, the act of the respondent in not including his name in the panel for no fault on his part is not legally sustainable and prayed for quashing the panel, insofar as his non-inclusion is concerned.



5.The learned Additional Government Pleader appearing for the respondents has extensively relied upon the counter, especially paragraph Nos. 18 & 19 and contended that G.O.(Ms).No.22, Rural Development and Panchayat Raj(E4) Department, dated 18.03.2010, only exempts the service of the Rural Welfare Officer Grade-II and it does not dispense with the mandatory requirement of serving as Junior Assistant. Therefore, by way of proceedings dated 12.07.2024, the second respondent has addressed a communication to the Director of Rural Development and Panchayat Raj, seeking to relax the rules in so far the petitioner is concerned, so that he could be included in the panel and promoted to the post of Assistant.

6.According to the learned Additional Government Pleader, the said communication of the second respondent herein is still pending with the Director of Rural Development and Panchayat Raj. As per Paragraph No.18 of the Counter, in case, the relaxation is granted by the Director of Rural Development and Panchayat Raj, the seniority of the petitioner would be restored and he would be placed above his juniors after being promoted as an Assistant. He further submits that though under impugned panel, 13 names were included, only the first 4 of them have been promoted. Therefore, as on today, none of the juniors of the writ petitioner have been promoted.



8. It is not in dispute that as per Tamil Nadu Ministerial Service Rules, the petitioner has to undergo training as Junior Assistant atleast for one year for being promoted as an Assistant. Admittedly, the petitioner has not served as Junior Assistant for a period of one year, so that his name to be considered for being promoted to the post of Assistant. Therefore, the department has sought for relaxation for the said rules, to include the name of the petitioner in the panel.

9. It is the contention of the learned Counsel appearing for the writ petitioner, though he had made a representation for being appointed as Junior Assistant way back on 08.12.2021 the said representation has not been considered and he has not been posted as Junior Assistant. Therefore, there is no fault on his part in not undergoing a training as a Junior Assistant. Therefore, he should not be found fault with, for not undergoing such training. The said submission has to be accepted in view of the representation of the writ petitioner dated 08.12.2021 and the inaction on the part of the department in not



appointing the writ petitioner as Junior Assistant. However, since the Tamil Nadu Ministerial Service Rules mandates the service of Junior Assistant for a period of one year, unless the service rules are relaxed in a manner known to law, the petitioner name cannot be included in the panel.

10. In view of the above said facts, this Court is not inclined to disturb the impugned panel dated 24.05.2024. However, it is made clear that the Director of Rural Development and Panchayat Raj is directed to consider the communication of the second respondent herein dated 12.07.2024 and pass positive orders as expeditiously as possible. However, before disposing of the said request for relaxation, none of his juniors shall be promoted to the post of Assistant.

11. With the above said observations, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are also closed.

10.09.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
RJR



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R.VIJAYAKUMAR, J.

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